

NEIL ABERCROMBIE  
GOVERNOR



Received & Inspected

HERMINA MORITA  
CHAIR

MICHAEL E. CHAMPLEY  
COMMISSIONER

LORRAINE H. AKIBA  
COMMISSIONER

SEP 25 2012

Telephone (808) 586-2020  
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**STATE OF HAWAII**  
**PUBLIC UTILITIES COMMISSION**  
**DEPARTMENT OF BUDGET AND FINANCE**  
465 S. KING STREET, #103  
HONOLULU, HAWAII 96813

FCC Mail Room

e-mail: Hawaii.PUC@hawaii.gov

September 18, 2012

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 – 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Karen Majcher  
Vice President of the High Cost and Low Income Division  
Universal Service Administrative Company  
2000 L. Street, N.W., Suite 200  
Washington, D.C. 20036

Re: Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R. Section 54.314, CC Docket No. 96-45/WC Docket No.10-90

Dear Ms. Dortch and Ms. Majcher:

Hawaiian Telcom, Inc. ("HTI"), a local exchange carrier; Sandwich Isles Communications, Inc. ("SIC"), a local exchange carrier; Coral Wireless, LLC ("Mobi"), a commercial mobile radio service provider; Pa Makani LLC dba Sandwich Isles Wireless ("SIW"), a commercial mobile radio service provider; T-Mobile West LLC ("T-Mobile"), also a commercial mobile radio service provider, are designated as eligible telecommunications carriers ("ETCs") within the State of Hawaii.<sup>1</sup>

Designated ETCs may receive federal universal service support, and a "carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended" as provided under section 254(e) of the Telecommunications Act of 1996.

The Hawaii Public Utilities Commission has established annual certification requirements applicable to Hawaii ETCs in Decision and Order No. 22228 ("D&O 22228"), in Docket No. 2005-0243 issued on January 17, 2006, subsequently updated on February 27, 2012 in (interim) Decision and Order No. 30230 in Docket No. 2011-0052.

In 2012, each designated ETC filed an application for annual certification as an ETC. The Hawaii Public Utilities Commission has separately considered and approved each application for ETC certification in dockets as listed in the below table.

<sup>1</sup> The Hawaii Public Utilities Commission ("HI PUC") designated: HTI as an ETC on December 4, 1997 in Decision and Order No. 16111 in Docket No. 1997-0363; SIC as an ETC on December 9, 1998, in Decision and Order No. 16737 in Docket No. 1998-0317; Mobi as an ETC on February 23, 2007 in Decision and Order No. 23275 in Docket No. 2005-0300; T-Mobile as an ETC on March 14, 2011 in Docket No. 2010-0119; SIW as an ETC on April 10, 2012 in Decision and Order No. 30309 in Docket No. 2011-0145.

0+4



Marlene H. Dortch  
Karen Majcher  
September 18, 2012  
Page 2

2012 Approved HI PUC Applications for ETC Certification

<b>Applicant</b>	<b>Docket No.</b>	<b>D&amp;O No.</b>	<b>D&amp;O Date</b>	<b>SAC</b>
HTI	2012-0070	30571	08/07/2012	623100
Mobi	2012-0084	30628	09/10/2012	629002
T-Mobile	2012-0069	30627	09/10/2012	629003
SIC	2012-0139	30636	09/18/2012	623021
SIW	2012-0138	30638	09/18/2012	629004

HTI, SIC, Mobi, SIW and T-Mobile state that they shall use federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with section 254(e) of the Act, and that they will comply with all requirements to be eligible for federal universal service support.

Pursuant to 47 C.F.R. § 54.314, the Hawaii Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that the telecommunications carriers described above are eligible to receive federal high-cost support, and that all federal high-cost support provided to these carriers within the State of Hawaii was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. See the enclosed Hawaii Public Utilities Commission Decision and Orders in Docket Nos. 2012-0069, 2012-0070, 2012-0084, 2012-0138, and 2012-0139.

If this letter does not fully satisfy the requirements for state certification of carriers to receive federal universal service support, we respectfully request a waiver of the October 1, 2012 deadline to correct any deficiencies.

Please contact Brooke K. Kane, Administrative Director, at (808) 586-2020 to address any questions on this matter.

Sincerely,



Hermina Morita  
Chair

HM:BP:do

Enclosures

c: Division of Consumer Advocacy, DCCA (w/enc.)  
Steven P. Golden, HTI (w/o enc.)  
Clifford K. Higa, Esq., SIC and SIW (w/o enc.)  
William W. Milks, Esq., Mobi (w/o enc.)  
R. Brian Tsujimura, Esq., T-Mobile (w/o enc.)



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

Received & Inspected  
SEP 25 2012  
FCC Mail Room

In the Matter of the Application of)

HAWAIIAN TELCOM, INC. )

DOCKET NO. 2012-0070

For Annual Certification as an )  
Eligible Telecommunications )  
Carrier for the Year Ended )  
December 31, 2011. )  

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DECISION AND ORDER NO. 30571

FILED  
2012 AUG -7 A 10:05  
PUBLIC UTILITIES  
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of)

HAWAIIAN TELCOM, INC. )

Docket No. 2012-0070

For Annual Certification as an )  
Eligible Telecommunications )  
Carrier for the Year Ended )  
December 31, 2011. )

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Decision and Order No. **30571**

DECISION AND ORDER

By this Decision and Order, the commission approves the application filed by HAWAIIAN TELCOM, INC. ("HTI") for annual certification of its eligible telecommunications carrier ("ETC") designation and certifies to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC") that HTI will utilize any federal universal service fund ("USF") support it receives for the purpose for which the support is intended, as set forth in HTI's certification to the commission, which is attached as Exhibit A to this Decision and Order.

## I.

### Background

HTI is a Hawaii corporation with its principal place of business located in Honolulu, Hawaii. HTI is a "public utility" as defined by Hawaii Revised Statutes ("HRS") § 269-1 and is regulated by the commission under HRS chapter 269. HTI is the State of Hawaii's ("State") incumbent local exchange carrier ("ILEC"), as defined by section 252 of the federal Telecommunications Act of 1996, which provides local and intraLATA telecommunications services in Hawaii, on a statewide basis.

In December 1997, the commission approved HTI's (formerly known as GTE Hawaiian Telephone Company, Incorporated), application for designated as an ETC to receive federal USF support, effective January 1, 1998.<sup>1</sup>

## A.

### Application

On April 2, 2012, HTI filed its application for annual certification as an ETC ("Application")<sup>2</sup> pursuant to Decision and

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<sup>1</sup>See In re GTE Hawaiian Telephone Company, Incorporated, Docket No. 97-0363, Decision and Order No. 16111, filed on December 4, 1997.

<sup>2</sup>HTI filed its Application for Annual Certification as an Eligible Telecommunications Carrier, Confidential Attachments

Order No. 22228, filed on January 17, 2006, in Docket No. 05-0243 ("Decision and Order No. 22228"), as modified by Order No. 30230 Updating on an Interim Basis the Annual Certification Requirements for Eligible Telecommunications Carriers, filed on February 27, 2012, in Docket No. 2011-0052 ("Order No. 30230").<sup>3</sup>

According to HTI, annual certification requirements did not apply to HTI prior to 2012 since it only received support under the FCC's Interstate Access Support ("IAS") program, which was folded into the newly created Connect American Fund ("CAF") program in 2011.<sup>4</sup> HTI further represents that Decision

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A-D, Certification of Steven Golden, Verification, and Certificate of Service on April 2, 2012 ("April 2, 2012 Filing"). By letter filed on April 17, 2012, HTI filed the "confidential" portions of its April 2, 2012 Filing under Protective Order No. 30319, filed on April 13, 2012 ("April 17, 2012 Filing"). HTI's April 2, 2012 Filing and its April 17, 2012 Filing are hereafter, collectively, referred to as the "Application."

<sup>3</sup>HTI served copies of the Application on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate" or "CA"), an ex officio party to this proceeding, pursuant to HRS § 269-51 and Hawaii Administrative Rules § 6-61-62(a). No persons moved to intervene or participate without intervention in this docket. Hereafter, HTI and the Consumer Advocate are referred to as the "Parties."

<sup>4</sup>On November 18, 2011, the FCC tackled reform of the USF and intercarrier compensation ("ICC") systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available throughout the United States. In doing so, the FCC revised various requirements and rules regarding USF and ICC, including those related to ETC designation and certification. See In re Connect America Fund, et al.; Report and Order and Further Notice of Proposed Rulemaking in WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109,



and Order No. 22228 exempted an ETC, such as HTI, from submitting the annual certification filings pursuant to 47 Code of Federal Regulations ("C.F.R.") §§ 54.313 and 54.314.<sup>5</sup> However, at this juncture, HTI represents the following:

Effective December 29, 2011, the FCC converted IAS into a form of universal service support and froze it under the CAF Phase I program. Further, the FCC revised its Part 54 reporting requirements so that all ETCs, whether designated by the state or by the FCC, must file an annual report demonstrating that they have used the federal support they have received "only for the provision, maintenance and upgrading of facilities and services for which the support is intended." The FCC will require state designated ETCs to file this information with the FCC for the first time on April 1, 2013, unless they already have been collecting the information and reporting it to the state, in which case they must file it with the FCC beginning April 1, 2012. Thus, beginning next year, the FCC rules no longer exempt HTI from filing an annual report with the FCC.

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and WT Docket No. 10-208; FCC 11-161; Adopted October 27, 2011; Released November 18, 2011.

<sup>5</sup>HTI elaborates as follows:

Under Decision and Order No. 22228 issued in Docket 05-0243, Exhibit 1. C., states that "An ETC that does not seek to obtain a state certification pursuant to 47 C.F.R. Section 54.313 and/or 47 C.F.R. Section 54.314 need not submit the annual filing ...". HTI did not seek state certification under these C.F.R. sections and thus was not subject in the past to the annual filing requirements set forth in Exhibit 1 A. of Decision and Order No. 22228.

Application at 4.

Application at 3 (footnotes omitted). Given the prior exemption, HTI states that it has not been collecting the required information to report on all of the requirements of Order No. 30230. Nonetheless, HTI represents that it is committed to reporting on items that it has information on, will provide an explanation on matters it is unprepared to report on, and is in the process of collecting 2012 data for reporting purposes in 2013.

As represented, HTI addresses each of the reporting requirements adopted by the commission in Decision and Order No. 22228, as modified by Order No. 30230 ("Reporting Requirements"),<sup>6</sup> as applicable, and provides documentation in support of its representations, in its Application. To address Reporting Requirement A(1), HTI provides its service quality improvement plan ("SQIP") as Confidential Attachment A. However, with respect to Reporting Requirement A(2), HTI states that it is unable provide a progress report regarding its service and network improvements given that it had no targets established for 2011. In response to Reporting Requirements A(3) through A(5) HTI provides detailed information regarding outages in 2011 as Confidential Attachment B, information regarding unfulfilled requests for

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<sup>6</sup>See Order No. 30230, Exhibit 1.

service in 2011 as Confidential Attachment C, and information regarding the number of complaints (per 1,000 handsets or lines) made to the commission, the FCC, and the Attorney General of the State as Confidential Attachment D. Included as part of its Application, HTI submitted the Certification of Steven Golden ("Certification"), Vice President of External Affairs of HTI, through which HTI certifies (or acknowledges) that:

1. It is in material compliance with applicable service quality standards and consumer protection rules;
2. HTI is able to demonstrate its ability to remain reasonably functional in emergency situations;
3. HTI, as the ILEC, is offering a local usage plan that complies with the requirements for annual certification; and
4. As the ILEC, HTI already provides equal access to long distance carriers; and acknowledges that the FCC may require it to provide equal access to long distance carriers in the event no other ETC is providing such access in the service area.

The certifications, described above, were provided to satisfy Reporting Requirements A(6) through A(9) of Exhibit 1, Order No. 30230. On pages 9-11 of its Application, HTI elaborates on its ability to satisfy Reporting Requirements A(6) through A(9). HTI states that Reporting Requirement A(10) regarding a carrier's price offerings in a format specified by the FCC's Wireline Competition Bureau ("WCB"), is inapplicable at

this time since the required format was not adopted by the WCB by the April 1, 2012 deadline. In addition, HTI certifies that that it "will use any federal high cost universal service support it receives for the purpose for which the support is intended."<sup>7</sup>

Based on the foregoing, HTI requests that the commission approve its Application and certify to the FCC that it is eligible to receive federal universal service support.

B.

Consumer Advocate's Position

On June 28, 2012, the Consumer Advocate filed its Statement of Position ("Position Statement") indicating that it does not object to HTI's request in the instant Application. In addition, the Consumer Advocate states the following:

[C]onsumers of telecommunication services, whether those services are subsidized by federal monies or not, are entitled to a certain minimum level of service quality. Thus, until the issues in Docket No. 2011-0052 are resolved and decided upon by the Commission, the Consumer Advocate recommends that the current reporting requirements placed on HTI regarding service quality continue. As a general caveat, the Consumer Advocate offers that the resulting criteria arising from discussions in Docket No. 2011-0052 will likely affect the way future ETC certification and recertification applications are reviewed.

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<sup>7</sup>See Application, Certification at 2.

CA's Position Statement at 13. Moreover, with respect to matters of Docket No. 2011-0052 (the commission initiated investigation to consider proposed amendments to its ETC annual certification requirements) the Consumer Advocate asserts that it is evaluating the impact of the recent FCC USF reforms and that it will communicate any recommendations and agreements, if any, in that docket.<sup>8</sup>

C.

HTI's Reply

On July 13, 2012, HTI filed its reply to the Consumer Advocate's Position Statement ("Reply"). HTI states that it does not object to the Consumer Advocate's recommendation that the current service quality reporting requirements placed on HTI continue, "with the understanding that the 'current reporting requirements' referred to by the Consumer Advocate are those requirements described in Order No. 13950, issued June 9, 1995, in Docket No. 7579, and the [Order Adopting Parties' Stipulations, Addressing Report Filing Requests, and Closing Docket filed on May 27, 2011, in Docket No. 2006-0400 ("Service Quality Order")]."

HTI clarifies that while at the time the Application was filed HTI was required to submit

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<sup>8</sup>See CA's Position Statement at 5.

monthly Status Reports in Docket No. 2006-0400, effective July 2012 it is no longer required to file the monthly Status Reports by commission order.<sup>9</sup>

## II.

### Discussion

Under Decision and Order No. 22228, as amended by Order No. 30230 Updating on an Interim Basis the Annual Certification Requirements for Eligible Telecommunications Carriers, an ETC designated by the commission must provide the following by April 1, 2012:

- A. A common carrier designated by the commission as an eligible telecommunications carrier ("ETC") under 47 U.S.C. § 214(e)(2) shall file with the commission, on an annual basis, the following information:
  - (1) A service quality improvement plan for the current and following year that identifies anticipated capital expenditures in the carrier's service area for service areas in which a carrier will or expects to expend universal service fund support, including maps detailing its planned targets, and an explanation of how universal service support will be used to improve signal quality, coverage, or capacity and other network improvement targets.
  - (2) A progress report for the previous year that identifies capital expenditures for service areas in which a carrier

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<sup>9</sup>See HTI's Reply at 2.

expended universal service fund support, including maps detailing its progress towards meeting its planned targets, an explanation of how universal service support was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled.

- (3) Detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5, lasting at least thirty (30) minutes for any service area in which an ETC is designated for any facilities it owns, operates, leases or otherwise utilizes that potentially affects at least ten percent (10%) of the end users' service in a designated service area or that potentially affects a 911 special facility. Specifically, the ETC's annual report must include: (a) the date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) the particular services affected; (d) the geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected.
- (4) The number of requests for service from potential customers within the carrier's service area that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers. A wireless carrier shall attempt to provide service using the steps set forth in 47 C.F.R. § 54.202(a)(1)(A).
- (5) The number of complaints, per 1,000 handsets or lines, made to the commission, the Federal Communications Commission ("FCC"), or the Department of Attorney General of the State of Hawaii during the past calendar year.

- (6) A certification that, to the best of its knowledge, the carrier is complying with applicable service quality standards and consumer protection rules. A wireless carrier's compliance with the Cellular Telecommunications and Internet Association's Code for Wireless Service will satisfy this requirement.
- (7) A certification that, to the best of its knowledge, the carrier is able to demonstrate its ability to remain reasonably functional in emergency situations.
- (8) A certification that, to the best of its knowledge, the carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas.
- (9) A certification that the carrier acknowledges that the FCC may require the carrier to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.
- (10) The carrier's price offerings in a format as specified by the Wireline Competition Bureau, if such a format is adopted before April 1, 2012.

Order No. 30230, Exhibit 1.

Upon review, the commission finds that HTI has satisfactorily complied with the annual certification requirements of Decision and Order No. 22228, as modified by Order No. 30230. HTI provided the required information as



mandated by the commission, as applicable.<sup>10</sup> Specifically, among other things, HTI submitted its SQIP and provided the necessary certifications as required. In particular, HTI certified that "Hawaiian Telcom, Inc. will use any federal high cost universal service support it receives for the purpose for which the support is intended."<sup>11</sup> The Consumer Advocate concurs with our assessment.<sup>12</sup>

With respect to the Consumer Advocate's recommendation in its Position Statement that the current reporting requirements placed on HTI continue, pending resolution of Docket No. 2011-0052,<sup>13</sup> the commission agrees with HTI that

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<sup>10</sup>The commission acknowledges that HTI was unable to file its 2011 progress report since it had no planned targets for 2011 given that it was exempted from filing service improvement plans in the past.

<sup>11</sup>See Application, Certification at 2.

<sup>12</sup>See CA's Position Statement at 13.

<sup>13</sup>In its Reply, HTI asserts the following:

In the Service Quality Order, the Commission noted that:

A concern in Docket No. 2010-0001 was how launch of new service offerings may impact Hawaiian Telcom's customers receiving traditional services. Given the intent to provide new service offerings, in particular NGTV, the commission finds it prudent and reasonable, at this time, to continue monitoring customer impact on a timely basis . . . The Status Report for each

effective July 2012 HTI is no longer required to file monthly Status Reports regarding service quality in Docket No. 2006-0400. However, the commission makes clear that HTI is still required to submit its monthly Service Measurement Reports as non-docketed filings as was committed to by HTI in Docket No. 2006-0400.<sup>14</sup>

In addition, the commission's final decision in Docket No. 2011-0052 is pending. The commission initiated Docket No. 2011-0052 in March 2011 to consider any proposed amendments to the commission's annual certification requirements applicable to commission designated ETCs.<sup>15</sup> The parties to Docket No. 2011-0052 are evaluating the impact of the FCC's recent reforms to its USF program, among other things, and

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month shall be filed no later than five days after the last day of the month, and shall continue to be filed until one year after the launch of NGTV service or June 2012, whichever is later.

The NGTV service was launched on July 1, 2011. Based on the foregoing criteria, beginning July 2012, Hawaiian Telcom was no longer required to file such Status Reports.

HTI's Reply at 3.

<sup>14</sup>See Service Quality Order at 10 and 14.

<sup>15</sup>See Order Opening a Proceeding to Amend the Commission's Annual Certification Requirements for Eligible Telecommunications Carriers, filed on March 14, 2011, in Docket No. 2011-0052.

are expected to file their permanent proposal (or proposals, as applicable) on updated annual ETC certification requirements for the commission's review and consideration by August 10, 2012.<sup>16</sup> As the Consumer Advocate notes in this proceeding "the resulting criteria arising from discussions in Docket No. 2011-0052 will likely affect the way future ETC certification and recertification applications are reviewed."<sup>17</sup>

Based on the foregoing, the commission concludes that:

(1) HTI's Application for annual certification of its ETC designation should be approved; and (2) certification that HTI will utilize any federal USF support it receives for the purpose for which the support is intended, as set forth in HTI's certification to the commission, which is attached as Exhibit A to this Decision and Order, should be provided to the FCC and USAC.

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<sup>16</sup>See Order No. 30509 Approving the Consumer Advocate's Request for Extension of Time to File Joint or Individual Proposals on Updated Annual Eligible Telecommunications Carrier Certification Requirements, filed on June 29, 2012, in Docket No. 2011-0052.

<sup>17</sup>See CA's Position Statement at 13.

III.

Orders

THE COMMISSION ORDERS:

1. HTI's Application for annual certification of its ETC designation is approved.

2. Certification is provided to the FCC and USAC that HTI will utilize any federal USF support it receives for the purpose for which the support is intended, as set forth in HTI's certification to the commission, which is attached as Exhibit A to this Decision and Order.

3. This docket is closed, unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii AUG - 7 2012.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Hermina Morita  
Hermina Morita, Chair

By Michael E. Champley  
Michael E. Champley, Commissioner

APPROVED AS TO FORM:

By Lorraine H. Akiba  
Lorraine H. Akiba, Commissioner

Ji Sook Kim  
Ji Sook Kim  
Commission Counsel

2012-0070.gb

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of )  
)  
)

HAWAIIAN TELCOM, INC. )  
)  
)

For Annual Certification as an Eligible )  
Telecommunications Carrier for the Year )  
Ended December 31, 2011 )  
)  
)  
\_\_\_\_\_ )

Docket No. \_\_\_\_\_

CERTIFICATION OF STEVEN GOLDEN

STATE OF HAWAII )  
)

CITY AND COUNTY OF HONOLULU )

SS:

STEVEN GOLDEN, being first sworn on oath, deposes and says that:

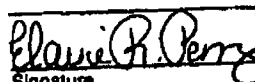
1. I am the Vice President – External Affairs of Hawaiian Telcom, Inc., applicant in the above referenced proceeding and I am authorized to make this certification on behalf of Hawaiian Telcom, Inc., which has been designated as an eligible telecommunications carrier pursuant to Decision and Order No. 16111, filed on December 4, 1997, in Docket No. 97-0363.
2. As an eligible telecommunications carrier in the State of Hawaii, I certify to the best of my knowledge that Hawaiian Telcom, Inc.:
  - a. is in material compliance with applicable service quality standards and consumer protection rules;

- b. is able to demonstrate its ability to remain reasonably functional in emergency situations;
- c. as the incumbent local exchange carrier, is offering a local usage plan that complies with the annual certification requirements; and
- d. as the incumbent local exchange carrier, already provides equal access to long distance carriers. Additionally, Hawaiian Telcom, Inc. further acknowledges that the FCC may require HTI to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.
3. I certify to the best of my knowledge that Hawaiian Telcom, Inc. will use any federal high cost universal service support it receives for the purpose for which the support is intended.


  
Steven Golden

This 2 page Certification of Steven Golden to Hawaiian Telcom, Inc.'s Application for Annual Certification as an Eligible Telecommunications Carrier dated April 2, 2012, was subscribed and sworn to before me on this 2<sup>nd</sup> day of April, 2012 in the First Circuit, State of Hawaii by Steven Golden.

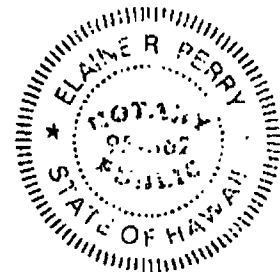
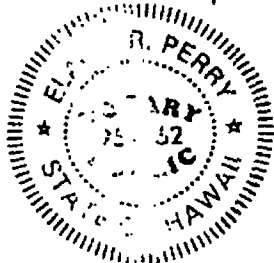
Doc Date: 4/2/12 # Pages: 2  
Name: ELAINE R. PERRY First Circuit  
Doc. Description: Certification of Steven Golden

  
Signature Date: 4/2/12

NOTARY CERTIFICATION

  
Printed Name: ELAINE R. PERRY  
Notary Public, State of Hawaii

My commission expires: Sept. 5, 2014



CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

JEFFREY T. ONO  
EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

STEVEN P. GOLDEN  
VICE-PRESIDENT, EXTERNAL AFFAIRS  
HAWAIIAN TELCOM, INC.  
1177 Bishop Street  
Honolulu, HI 96813





Received & Inspected

SEP 25 2012

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

FCC Mail Room

In the Matter of the Application of)

CORAL WIRELESS, LLC, dba MOBI PCS )

DOCKET NO. 2012-0084

For Annual Certification as an )

Eligible Telecommunications )

Carrier in the State of Hawaii. )

DECISION AND ORDER NO. 30628

FILED  
2012 SEP 10 A 9:57  
PUBLIC UTILITIES  
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
CORAL WIRELESS, LLC, dba MOBI PCS )  
For Annual Certification as an )  
Eligible Telecommunications )  
Carrier in the State of Hawaii. )  

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Docket No. 2012-0084  
Decision and Order No. **30628**

DECISION AND ORDER

By this Decision and Order, the commission approves the application filed by CORAL WIRELESS, LLC, dba MOBI PCS ("Mobi") for annual certification of its eligible telecommunications carrier ("ETC") designation and certifies to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC") that all federal high-cost support provided to Mobi within the State of Hawaii ("State") was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

I.

Background

Mobi is authorized by the FCC<sup>1</sup> and the commission to provide commercial mobile radio service, or wireless telecommunications service, throughout the State.<sup>2</sup> In February 2007, Mobi was designed by the commission as an ETC for the service areas of Hawaiian Telcom, Inc. and Sandwich Isles Communications, Inc.<sup>3</sup>

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<sup>1</sup>On November 18, 2011, the FCC tackled reform of the universal service fund ("USF") and intercarrier compensation ("ICC") systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available throughout the United States. In doing so, the FCC revised various requirements and rules regarding USF and ICC, including those related to ETC designation and certification and created the new Connect America Fund ("CAF") program. See In re Connect America Fund, et al.; Report and Order and Further Notice of Proposed Rulemaking in WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, and WT Docket No. 10-208; FCC 11-161; Adopted October 27, 2011; Released November 18, 2011.

<sup>2</sup>See In re Coral Wireless, LLC dba Mobi PCS, Decision and Order Nos. 21744 and 23234, filed on April 14, 2005 and January 31, 2007, in Docket Nos. 05-0018 and 2006-0457, respectively.

<sup>3</sup>See In re Coral Wireless, LLC dba Mobi PCS, Decision and Order No. 23275, filed on February 23, 2007, in Docket No. 05-0300.

A.

Application

On April 23, 2012, Mobi filed its application<sup>4</sup> for annual certification as an ETC pursuant to Decision and Order No. 22228, filed on January 17, 2006, in Docket No. 05-0243 ("Decision and Order No. 22228"), as amended by Order No. 30230 Updating on an Interim Basis the Annual Certification Requirements for Eligible Telecommunications Carriers, filed on February 27, 2012, in Docket No. 2011-0052 ("Order No. 30230").<sup>5</sup>

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<sup>4</sup>Mobi filed its 2012 Annual Certification Report and various attachments on April 23, 2012 ("April 23, 2012 Filing"). On May 3, 2012, Mobi filed the "confidential" portions of its April 23, 2012 Filing under Protective Order No. 30352, filed on April 27, 2012 ("May 3, 2012 Filing"). Mobi's April 23, 2012 Filing and its May 3, 2012 Filing are hereafter, collectively, referred to as the "Application."

<sup>5</sup>Mobi served copies of its Application on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate" or "CA"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 6-61-62(a). Hereafter, Mobi and the Consumer Advocate are referred to as the "Parties."

On May 21, 2012, the commission issued Order No. 30394 Instructing the Parties to Submit a Stipulated Procedural Order directing the Parties file their stipulated proposed procedural order for the commission's review and consideration by May 31, 2012. As directed, on May 31, 2012, the Parties submitted their proposed "Stipulated Procedural Order", which the commission approved on June 4, 2012. See Stipulated Procedural Order No. 30420, filed on June 4, 2012.

On July 30, 2012, Sandwich Isles Communications Inc. and Pa Makani LLC dba Sandwich Isles Wireless (collectively, "Movants") filed their joint motion to intervene as parties to this proceeding ("Motion to Intervene"). Mobi filed its

In its Application, Mobi addresses each of the reporting requirements adopted by the commission in Decision and Order No. 22228, as modified by Order No. 30230 ("Reporting Requirements"),<sup>6</sup> and provides documentation in support of its representations. In adherence with Reporting Requirements A(1) through A(4), Mobi provides its Service Quality Improvement Plan ("SQIP") for the calendar years 2012 and 2013, a Progress Report for the previous year, detailed information regarding network outages throughout 2011, and information regarding unfulfilled requests for service in 2011. To satisfy Reporting Requirement A(5), Mobi provides information with regards to the number of complaints per 1,000 handsets reported to the commission, the FCC, and the Attorney General of the State for 2011 on pages 4-5 of the Application. Through a certification attached to the Application signed by William Jarvis, President and Chief Executive Officer ("Certification"), Mobi certifies (or acknowledges) that:

1. Mobi complies with the applicable service quality standards and consumer protection rules;

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opposition to Movants' Motion to Intervene on August 6, 2012. On September 7, 2012, the commission issued Order No. 30626 Denying Procedural Requests Related to the Motion to Intervene Filed by Sandwich Isles Communications and Pa Makani LLC, dba Sandwich Isles Wireless, and Dismissing their Motion to Intervene, in this docket.

<sup>6</sup>See Order No. 30230, Exhibit 1.

2. Mobi is able to demonstrate its ability to remain reasonably functional in emergency situations;
3. Mobi is offering a local usage plan comparable to that offered by the incumbent local exchange carriers; and
4. Mobi acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC provides equal access within its service area.

The certifications, described above, were provided to satisfy Reporting Requirements A(6) through A(9) of Exhibit 1, Order No. 30230. On pages 5-7 of its Application, Mobi elaborates on its ability to satisfy Reporting Requirements A(6) through A(9). With respect to Reporting Requirement A(10), Mobi states that the FCC's Wireline Competition Bureau has not yet released specific instructions regarding the format for reporting a carrier's price offerings and, thus, Mobi has not included such data in its application.

In addition, Mobi contends that it "adheres to and exceeds call answering standards for local, inter-island, and interstate calls as well as calls made to its customer service lines and directory assistance operators."<sup>7</sup> Moreover, Mobi certifies that that it will utilize "[a]ll federal universal service support funds received . . . in a manner consistent with Section 254(e) [of the Telecommunications Act of 1996]; that is,

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<sup>7</sup>See Application at 8.

for the provision, maintenance, and upgrading of facilities and services for which the support is intended[.]”<sup>8</sup>

Based on the foregoing, Mobi requests that the commission approve its Application, and certify to the FCC and USAC that it is eligible to receive USF support in accordance to 47 Code of Federal Regulations §§ 54.313 and 54.414.

B.

Consumer Advocate's Position

On August 10, 2012, the Consumer Advocate filed its Statement of Position (“Position Statement”) indicating that it does not object to Mobi’s request in the instant Application. While commenting on the level of detail provided by Mobi regarding certain requirements, the Consumer Advocate states that it “also does not object to the Commission’s certification to the FCC that all federal high-cost and CAF support was used in 2011 and will be used in 2013 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended[.]”<sup>9</sup> In addition, the Consumer Advocate states and acknowledges that:

[U]ntil the issues in Docket No. 2011-0052 are resolved and decided upon by the Commission, the review to verify that universal service support

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<sup>8</sup>See Certification, attached to the Application, at 2.

<sup>9</sup>See CA’s Position Statement at 17.

is being used for its intended purpose will be variable, to some degree. The Consumer Advocate offers that, depending on the state of Hawaii's goals, thoughtful development of the criteria that will result from Docket No. 2011-0052 will facilitate future review and fulfilling state objectives as those criteria will likely affect the way future ETC certification and recertification applications are reviewed.

CA's Position Statement at 17-18.

C.

Mobi's Response

On August 21, 2012, Mobi filed its response to the Consumer Advocate's Position Statement. Mobi, in its response, acknowledges the Consumer Advocate's position not to object to its ETC recertification Application, and reiterates its request for commission approval of its Application and certification to the FCC and USAC regarding its eligibility to continue to receive USF support.

II.

Discussion

Under Decision and Order No. 22228, as amended by Order No. 30230 Updating on an Interim Basis the Annual Certification Requirements for Eligible Telecommunications Carriers, an ETC designated by the commission must provide the following by April 1, 2012:



- A. A common carrier designated by the commission as an eligible telecommunications carrier ("ETC") under 47 U.S.C. § 214(e)(2) shall file with the commission, on an annual basis, the following information:
- (1) A service quality improvement plan for the current and following year that identifies anticipated capital expenditures in the carrier's service area for service areas in which a carrier will or expects to expend universal service fund support, including maps detailing its planned targets, and an explanation of how universal service support will be used to improve signal quality, coverage, or capacity and other network improvement targets.
  - (2) A progress report for the previous year that identifies capital expenditures for service areas in which a carrier expended universal service fund support, including maps detailing its progress towards meeting its planned targets, an explanation of how universal service support was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled.
  - (3) Detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5, lasting at least thirty (30) minutes for any service area in which an ETC is designated for any facilities it owns, operates, leases or otherwise utilizes that potentially affects at least ten percent (10%) of the end users' service in a designated service area or that potentially affects a 911 special facility. Specifically, the ETC's annual report must include: (a) the date and time of onset of the outage; (b) a brief description of the outage and its

resolution; (c) the particular services affected; (d) the geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected.

- (4) The number of requests for service from potential customers within the carrier's service area that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers. A wireless carrier shall attempt to provide service using the steps set forth in 47 C.F.R. § 54.202(a)(1)(A).
- (5) The number of complaints, per 1,000 handsets or lines, made to the commission, the Federal Communications Commission ("FCC"), or the Department of Attorney General of the State of Hawaii during the past calendar year.
- (6) A certification that, to the best of its knowledge, the carrier is complying with applicable service quality standards and consumer protection rules. A wireless carrier's compliance with the Cellular Telecommunications and Internet Association's Code for Wireless Service will satisfy this requirement.
- (7) A certification that, to the best of its knowledge, the carrier is able to demonstrate its ability to remain reasonably functional in emergency situations.
- (8) A certification that, to the best of its knowledge, the carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas.
- (9) A certification that the carrier acknowledges that the FCC may require

the carrier to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

- (10) The carrier's price offerings in a format as specified by the Wireline Competition Bureau, if such a format is adopted before April 1, 2012.

Order No. 30230, Exhibit 1.

Upon review, the commission finds that Mobi has satisfactorily complied with the annual certification requirements of Decision and Order No. 22228, as modified by Order No. 30230. Mobi provided the required information as mandated by the commission, as applicable. Specifically, among other things, Mobi submitted its SQIP, its 2011 progress report, and provided the necessary certifications as required. In particular, Mobi certified that it will utilize "[a]ll federal universal service support funds received . . . in a manner consistent with Section 254(e) [of the Telecommunications Act of 1996]; that is, for the provision, maintenance, and upgrading of facilities and services for which the support is intended[.]"<sup>10</sup> The Consumer Advocate concurs with our assessment.<sup>11</sup>

In addition, the commission is mindful that our final decision in Docket No. 2011-0052 is pending. The commission

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<sup>10</sup>See Certification, attached to the Application, at 2.

<sup>11</sup>See CA's Position Statement at 17.

initiated Docket No. 2011-0052 in March 2011 to consider any proposed amendments to the commission's annual certification requirements applicable to commission designated ETCs.<sup>12</sup> The parties to Docket No. 2011-0052 are evaluating the impact of the FCC's recent reforms to its USF program, among other things, and are expected to file their permanent proposal (or proposals, as applicable) on updated annual ETC certification requirements for the commission's review and consideration by October 19, 2012.<sup>13</sup> As the Consumer Advocate notes in this proceeding "criteria that will result from Docket No. 2011-0052 . . . will likely affect the way future ETC certification and recertification applications are reviewed."<sup>14</sup>

Based on the foregoing, the commission concludes that: (1) Mobi's Application for annual certification of its ETC designation should be approved; and (2) certification that all federal high-cost support provided to Mobi within the State of Hawaii was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance,

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<sup>12</sup>See Order Opening a Proceeding to Amend the Commission's Annual Certification Requirements for Eligible Telecommunications Carriers, filed on March 14, 2011, in Docket No. 2011-0052.

<sup>13</sup>See Order No. 30581 Approving the Consumer Advocate's Request for an Extension of Time to File Joint or Individual Proposals on Updated Annual Eligible Telecommunications Carrier Certification Requirements, filed on August 13, 2012, in Docket No. 2011-0052.

<sup>14</sup>See CA's Position Statement at 17-18.

and upgrading of facilities and services for which the support is intended should be provided to the FCC and USAC.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. Mobi's Application for annual certification of its ETC designation is approved.

2. Certification is provided to the FCC and USAC that all federal high-cost support provided to Mobi within the State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

3. This docket is closed, unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii SEP 10 2012.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By *Hermina Morita*  
Hermina Morita, Chair

By *Michael E. Champley*  
Michael E. Champley, Commissioner

By *Lorraine H. Akiba*  
Lorraine H. Akiba, Commissioner

APPROVED AS TO FORM:

*Ji Sook Kim*  
Ji Sook Kim  
Commission Counsel

2012-0084.gb

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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